

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

IRA B. HARRIS, Register No. 44990, )  
  )  
  Plaintiff, )  
  )  
  v. )                                    No. 07-4175-CV-C-SOW  
  )  
KEITH SCHAFER, et al., )  
  )  
  Defendants. )

**ORDER**

On June 3, 2008, United States Magistrate Judge William A. Knox recommended granting defendants' motion to dismiss and dismissing plaintiff's claims for failure to state a claim on which relief may be granted. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including plaintiff's motion of June 12, 2008, requesting that counsel be appointed and that he be provided copies of the original documents submitted in support of his motion. Upon review, the court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

To the extent plaintiff has requested appointment of counsel to assist with his claims, the court notes plaintiff's claims of denial of proper mental health treatment are being litigated in the United States District Court for the Eastern District of Missouri in a case where legal counsel and a next of friend have been appointed on plaintiff's behalf. Further, the Eastern District of Missouri is the location of the prison where plaintiff is currently incarcerated.

On this one occasion, because the copies plaintiff seeks are of original court documents from his pending Eastern District of Missouri case, plaintiff's motion for copies is granted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of

appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff's motion for copies is granted and the Clerk of Court is directed to forward to plaintiff a copy of the exhibit attached to document number 28. [28] It is further

ORDERED that plaintiff's motion for appointment of counsel is denied. [28] It is further

ORDERED that the Report and Recommendation of June 3, 2008, is adopted. [27] It is further

ORDERED that defendants' motion of February 7, 2008, is granted and plaintiff's claims are dismissed, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim. [15]

/s/Scott O. Wright  
SCOTT O. WRIGHT  
Senior United States District Judge

Dated: July 3, 2008